

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-2106**

January 5, 2011

The Honorable Darrell Issa  
Chairman-Designate  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman-Designate Issa:

Congratulations on your assumption of the chairmanship of the Committee on Oversight and Government Reform. As you know, this Committee has an obligation to conduct fair and vigorous oversight of federal government activities in order to assure the American public that we remain good stewards of taxpayer dollars.

I have taken note of your recent public statements and oversight blueprint for the 112<sup>th</sup> Congress and appreciate your intention to focus on corruption in Afghanistan. As you know, during the 110<sup>th</sup> and 111<sup>th</sup> Congresses, the House Oversight Subcommittee on National Security and Foreign Affairs (the Subcommittee), which I chaired with Congressman Jeff Flake serving as Ranking Member, conducted investigations into corruption in Afghanistan. I look forward to continuing these efforts with you in the coming year.

Nevertheless, I am writing to express my concern over the conspicuous omission from this agenda of the broader issues of the Department of Defense (DOD) budget, in general, and the issue of contingency contracting, in particular. The same vigilance that I anticipate you plan to bring to investigations into corruption in Afghanistan must be extended to the entirety of the DOD budget. DOD accounts for over half of all discretionary spending by the federal government. Simply put, the Committee is not effectively fulfilling its obligations if it does not conduct proper oversight of such a significant part of the federal government's expenditures.

Throughout the 110<sup>th</sup> and 111<sup>th</sup> Congresses, the work of the Subcommittee has highlighted the need for increased oversight of DOD spending, primarily focusing its efforts on contracting activities in contingency operations. For the first time in our military history, at the height of hostilities in Iraq there were more contractors in theater than U.S. troops. As of March 2009, the same was true in Afghanistan. The precipitous growth in DOD contracting makes oversight of this issue of vital importance to the public interest, and I urge you to amend your agenda to include it.

The Subcommittee has conducted thorough and extensive investigations, hearings, and research into DOD budgeting and spending. The results of these efforts have revealed that certain DOD procedures, practices and programs are inefficient, poorly developed, and occasionally quite alarming. These investigations revealed corruption, extortion, and fraud that have resulted in billions of lost taxpayer dollars and actions by contractors that undermine our military and diplomatic efforts in Iraq and Afghanistan. As to broader DOD budgetary issues, an illustrative, but not exhaustive, list of the Subcommittee's investigations includes:

- *Coalition Support Funds to Pakistan.* Following 9/11, the United States government established a number of programs designed to provide financial and educational assistance to nations allied in support of U.S. counterterrorist operations. Among these, the United States established the Coalition Support Funds program which authorized funds to be released in order to “reimburse” counterterrorism allies for incremental costs associated with supporting U.S. combat operations. With minimal legislative guidance, the Department of Defense was granted enormous discretion and authority to manage and distribute the funds. Unfortunately, however, after an eight-month investigation into the program, the Subcommittee learned that funds distributed to Pakistan under the program suffered at least three significant problems: first, considerable waste, fraud, and abuse of taxpayer dollars; second, a failure to achieve vital U.S. security objectives; and, third, the program’s incompatibility with a long-term strategic partnership between the U.S. and Pakistan. Specifically, a GAO report found that many of the fund disbursements were for costs that never actually occurred or were made without proper validation, were duplicative, or were incompatible with the legislative intent. The Subcommittee’s investigation culminated in a report released by the Majority Staff, entitled *U.S. Coalition Support Funds to Pakistan: From Ineffective, Unaccountable Reimbursements to a Long-Term, Strategic Relationship*, which highlighted these issues and made recommendations for adjustments to and alterations of the program and underlying strategy in order to more closely align with the federal government’s long-term operational objectives. This oversight in conjunction with related congressional action, such as the mandatory assessment of aid to Pakistan required under the Kerry-Lugar-Berman bill, continues to pressure the Administration to reevaluate its assistance programs with an eye toward their more productive execution.
- *U.S. missile defense.* As part of its sustained investigations into Defense Department spending and broader national security concerns, the Subcommittee conducted a three-hearing series dedicated to the United States’ ballistic missile defense systems. Specifically, the hearings addressed: (1) the comparison of the threats driving the ballistic missile program to other vulnerabilities facing the United States; (2) the technical prospects for the success of the United States’ missile defense efforts, especially with the ground-based, mid-course system, and; (3) the staggering costs involved in this effort. As a result of the Subcommittee’s work, the FY2010 National Defense Authorization Act was amended to include the requirements that the Secretary of Defense enter into an arrangement with the JASON Defense Advisory Panel to carry out a study on the technical and scientific feasibility of the discrimination capabilities of the U.S. missile defense system and that the Missile Defense Agency report the results of the study to the appropriate congressional committees. That study, released in August, provided insight into U.S. missile defense capabilities, highlighting deficiencies in the current programs and making recommendations to correct them. In combination with the Subcommittee record on the subject, this study continues to assist policy makers in efficient and effective decision-making going forward.
- *Weapons systems acquisitions.* Throughout the 110<sup>th</sup> and 111<sup>th</sup> Congresses, the Subcommittee focused extensively on the Defense Department’s acquisitions policies and practices, particularly with respect to its acquisitions of weapons systems. From both a cost-accountability and national security perspective, the Subcommittee sought to ensure that defense spending is efficient and accurately reflects defense needs based on current and future threat realities. In April 2008, the Subcommittee held a hearing on weapons acquisitions, noting that, from 2000 to 2006, DOD expenditures increasingly and significantly exceeded budget estimates. The centerpiece of the hearing was a GAO report that found that DOD repeatedly failed to meet industry best practices, rewarded contractors who did not deliver projects on budget and on time, purchased untested and

unrealistic weapons technologies, and invested in weapons systems that are anachronistic relative to today's operational necessities. In the following year, DOD made important reforms to its acquisitions programs and policies, and GAO released a follow-on report in March 2009, assessing the progress of DOD's efforts. In May 2009, partially as a result of the Subcommittee's oversight activities, Congress passed the Weapons Systems Acquisition Reform Act, and the Subcommittee revisited these issues with a second hearing on the subject in that same month. The Subcommittee found that, while DOD had made significant progress since the 2008 hearing, the acquisitions process was still in desperate need of further improvement. For this reason, I have strongly supported the passage of the Implementing Management for Performance and Related Reforms to Obtain Value in Every (IMPROVE) Acquisition Act of 2010 which would correct many of the problematic issues that remain. Persistent congressional oversight and pressure will be critical in ensuring that the Defense Department continues toward reforming its acquisitions practices.

In addition to the broader investigations highlighted above, the Subcommittee placed a more directed emphasis on the issue of federal contracting in contingency operations. Largely focused on contracts supporting the Iraq and Afghanistan wars, these efforts included investigations into:

- *Host Nation Trucking contracts in Afghanistan.* The Afghan Host Nation Trucking contract (HNT) is a \$2.16 billion dollar contract – split among eight companies – to transport over 90% of DOD goods and materiel in Afghanistan, including food, water, fuel, equipment, and ammunition. The Subcommittee investigation revealed that the HNT companies often paid private security contractors (PSCs) to ensure safe passage through Afghanistan. These PSCs, in turn, made protection payments to local warlords in exchange for their agreement to prevent attacks within their regional domain. In many cases, these protection payments made their way into the hands of warlords and, directly or indirectly, the very insurgents that U.S. forces were fighting. This investigation culminated in a Subcommittee majority staff report entitled *Warlord Inc.*, and, as a direct result of the report, DOD took several concrete steps to improve the oversight and conduct of HNT contracts.
- *Jet fuel contracts in Kyrgyzstan.* In the latter half of 2010, the Subcommittee focused its attention on two major DOD fuel contracts in Kyrgyzstan, where the United States maintains the Manas Transit Center, a critical logistical hub supporting U.S. operations in Afghanistan. Held exclusively by two companies since 2003, these contracts provide the majority of the jet fuel used by the military in support of the war in Afghanistan and became a significant source of allegations of corruption that ultimately fueled a bloody revolution. Although no evidence was found that the companies were involved in the alleged corruption, the investigation illuminated a disturbing lack of oversight by DOD and the State Department, even when the contracts were threatening U.S.-Kyrgyz relations and U.S. strategic objectives. Maintaining pressure on DOD officials to resolve these deficiencies by increasing government accountability and transparency will be necessary to protect our nation's security interests and relations with our allies and partners abroad. These findings were detailed in a December 2010 report, *Mystery at Manas: Strategic Blind Spots in the Department of Defense's Fuel Contracts in Kyrgyzstan*, released by the Subcommittee Majority staff and containing several recommendations for a more prudent approach to contingency contracting in general and to contracting in the volatile Central and South Asia region in particular. Maintaining pressure on DOD officials to resolve its deficiencies by increasing government accountability and transparency will be necessary to protect our nation's security interests and relations with our allies and partners abroad.



- *Iraq reconstruction.* The Subcommittee has been engaged in continuous oversight of ongoing U.S. commitments and investments related to the reconstruction of Iraq. These efforts have included two investigations, three official visits to Iraq, eight investigations by GAO, and two hearings. Most notably, the Subcommittee investigated, and held a hearing on, allegations of waste, fraud, and abuse during the construction of the new U.S. embassy in Iraq. The Subcommittee exposed a wasteful misapplication of funds from the Commander Emergency Response Program (CERP), the performance of substandard work by contractors, a series of contractor overcharges, and evidence that high-level officers within the prime contractor's organization engaged in several kick-back schemes with subcontractors. Perhaps most disconcerting was the discovery of evidence that the prime contractor on the construction project potentially engaged in human rights violations, including human trafficking. The Subcommittee's exposure of these issues increased Congressional scrutiny and pressured the military to develop better mechanisms to ensure that U.S. funds were spent in an effective and accountable manner, consistent with congressional intent and with the principles of human dignity.
- *Broad contingency contracting policies and practices.* The Subcommittee also looked more broadly at DOD, State Department and USAID general policies and practices with respect to contingency contracting. What we found was disturbing. For example, in early 2010, the Subcommittee discovered that federal agencies engaged in contingency contracting were often unaware of the identities of subcontractors. As a result of these and other investigations and hearings, General Petraeus issued a new set of guidelines governing the use of contractors in the field.

In addition to these investigations and hearings, at least two significant legislative reforms have been initiated to follow on Subcommittee work. In September 2010, the House passed the *Overseas Contractor Reform Act*, a bill introduced by Congressman Peter Welch that would require any person found to be in violation of the *Foreign Corrupt Practices Act of 1977* to be proposed for debarment from any federal contract or grant and would also declare it against U.S. government policy to award contracts or grants to individuals and companies that violate the Act. Also, Congressman Mike Quigley recently introduced *The Federal Contracting Oversight and Reform Act*, which calls for the consolidation of nine separate federal databases of contract information into a single searchable and linked network, designed to regulate contractor fraud and war profiteering.

The work of the Subcommittee demonstrates that vigilant oversight of DOD contracting activities is critical in maximizing the efficient use of taxpayer dollars, the transparency of DOD processes, and the safety of our men and women in uniform. Nonetheless, it is also clear that wasteful spending by DOD is not limited to the theaters of Iraq and Afghanistan.

The United States now spends more on its military than during the height of the Cold War. In fact, U.S. defense spending is now roughly equal to military spending by all other countries combined. Defense spending accounts for almost 65 percent of the increase in annual discretionary spending levels since 2001. Although the wars in Iraq and Afghanistan have contributed to an increase in DOD spending, non-war defense spending accounts for 37 percent of DOD's discretionary spending increase since 2001. Given the size of our deficit and debt and the political challenges confronting any attempt to resolve these issues, it is incumbent on this Committee that defense spending be, at the very least, closely scrutinized. Transparency and oversight should not end at the Pentagon doors.

The Honorable Darrell Issa

January 5, 2011

Page 5

DOD continues to be plagued by cost overruns and inefficiencies. The Pentagon remains stuck in a Cold War posture – committed to developing weapons systems and initiatives long after their usefulness has been questioned or disproved and with an overseas footprint reflective of a geopolitical structure that no longer exists. The F-22 program is a perfect example of this waste. A contractor was chosen in 1991 for the plane, which was to be used in aerial combat against the Soviet Union. Yet the plane did not become operational until 2005, long after the collapse of the Soviet Union and at double the program's original cost. I firmly believe that closer scrutiny of DOD's acquisitions processes and the manner in which it conducts contracting and weapons research and development, as well as a review of its geographic combatant commands, will reveal additional opportunities to save taxpayer dollars without sacrificing the safety and security of this country or its men and women in uniform.

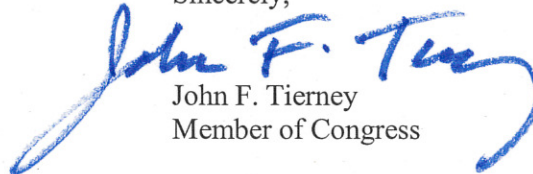
In July 2010, the Subcommittee held a hearing entitled "Rethinking our Defense Budget: Achieving National Security through Sustainable Spending," highlighting the efforts of the Sustainable Defense Task Force that was created in response to a request made by Congressmen Ron Paul and Barney Frank to control defense spending. The hearing and the Sustainable Defense Task Force's work offer an important roadmap for further examination of ways to cut wasteful spending at DOD.

The Subcommittee's efforts have resulted in the exposure of billions of dollars of waste and significant positive changes to operational practices, strategic policies, and the culture of contracting itself. Ensuring that these changes are implemented consistently and permanently and that additional waste fraud and abuse are discovered and addressed will require persistent and diligent oversight. A broad examination of the DOD budget is an essential component to fulfilling the duties of this Committee.

With these thoughts in mind, I would like to respectfully recommend, as you continue to formulate your agenda for the Oversight subcommittees during the upcoming Congress, that you dedicate your attention to these important issues. I firmly believe that a thorough review of the DOD budget and some of the agency's processes and procedures is in the best interest of the U.S. government and of the American people and would be a well-advised discharge of your authority and responsibility in the 112th Congress.

Thank you for your attention to and consideration of this matter.

Sincerely,



John F. Tierney  
Member of Congress

CC: The Honorable Elijah E. Cummings  
Ranking Member-Designate  
Committee on Oversight and Government Reform  
U.S. House of Representatives

The Honorable Jason Chaffetz  
Chairman-Designate  
Subcommittee on National Security, Homeland Defense and Foreign Operations  
Committee on Oversight and Government Reform  
U.S. House of Representatives